

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ROLAND ADAMS,	:	
	:	
Petitioner,	:	
	:	
v.	:	CASE NO. 4:09-CV-149 CDL
	:	
ERIC HOLDER, <i>et al.</i> ,	:	28 U.S.C. § 2241
	:	Habeas Corpus Petition
Respondent.	:	

ORDER

On May 14, 2010, the Court issued an Order Denying Petitioner's Certificate of Appealability and Motion to Proceed *in forma pauperis*. [Doc. 26]. Petitioner was informed that if he could not pay the total filing fee, that pursuant to 28 U.S.C. § 1915(b), the prison account custodian where Petitioner is incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month's income credited to Petitioner's account until the \$455.00 appellate filing fee has been paid in full. However, the partial payment plan as provided by the Prison Litigation Reform Act should only be applied in § 1983 prisoner civil rights matters and not to petitions for habeas corpus. Therefore, the Court's previous Order that denied both Petitioner's Certificate of Appealability and Motion to Proceed *in forma pauperis* is hereby vacated and replaced with the following:

Petitioner Adams filed a Notice of Appeal [Doc. 19] on April 23, 2010, from this court's Judgment denying his application for habeas corpus relief pursuant to 28 U.S.C. § 2241. [Doc. 17, 18]. Thereafter, on May 6, 2010, Petitioner filed a Motion for Leave to Proceed *In Forma Pauperis* on appeal. [Doc. 25].

Title 28, United States Code, Section 2253(c) provides:

- (1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from —
 - (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of a process issued by a State court; or
 - (B) the final order in a proceeding under section 2255.
- (2) A certificate of appealability may issue under ¶ (1) only if the applicant has made a substantial showing of the denial of a constitutional right.
- (3) The certificate of appealability under ¶ (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

This court adopted the report and recommendation of the Magistrate Judge which found that Petitioner's various claims did not entitle him to the relief he sought.

WHEREFORE, Petitioner Adams has failed to make a substantial showing of the denial of a constitutional right. Therefore, his Application for Certificate of Appealability is hereby **DENIED**. Petitioner's motion to proceed *in forma pauperis* on appeal is also hereby **DENIED** as moot.

SO ORDERED this 27th day of May, 2010.

S/Clay D. Land

CLAY D. LAND
UNITED STATES DISTRICT JUDGE